

TAB 10

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

	x	
	:	
THE CITY OF HUNTINGTON,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01362
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

	x	
	:	
CABELL COUNTY COMMISSION,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01665
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

BENCH TRIAL - VOLUME 7
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

MAY 11, 2021

1 averages every year?

2 **A.** Yes. It's reflected in the -- in the exhibits that I
3 presented.

4 **Q.** Okay. And I'm talking about prescribing, not
5 distribution.

6 **A.** Oh, I'm sorry. I don't have data on prescriptions
7 written, so I don't have the ability to compare the
8 prescriptions written or, for that matter, prescriptions
9 filled on a prescription basis. So, I -- that can't be
10 included in the data I presented summaries for.

11 **Q.** I'm asking if you considered it? Did you consider the
12 fact that, in 2006, Cabell County ranked eighth in the
13 entire nation for opioid prescribing per capita?

14 **A.** No, I didn't know that.

15 **Q.** Okay. Did you consider the fact that prescribed dosage
16 units continued to rise after 2006 with dosage units in
17 Cabell County peaking in 2009, when every resident of the
18 county could have been prescribed nearly 160 dosage units
19 each?

20 **A.** I didn't know that or the previous fact, but they're
21 both consistent with the summaries that I presented on
22 distribution, but these two items are not part of the data
23 that I reviewed.

24 **Q.** Okay. And the fact that prescribing in Cabell County
25 peaked in 2009 is entirely consistent with your countless

1 opinions that distribution peaked in 2009, correct?

2 **A.** Correct. That's what I say. They're two sides of the
3 same coin.

4 **Q.** They are two sides of the same coin. And that's
5 because prescribing in Cabell County drove distribution in
6 Cabell County, correct?

7 MR. MOUGEY: Objection, Your Honor. Far outside
8 the scope of what the -- Dr. McCann's opinions were on.

9 MR. MAHADY: Your Honor, he just testified that
10 it's two sides of the same coin.

11 THE COURT: Yes. Overruled. You can ask him.

12 THE WITNESS: Which is driving which is, I think,
13 a significant part of what the litigation is about, was that
14 doctor behavior, and was that doctor behavior influenced by
15 actions of the parties, or was it the actions of the
16 manufacturers and distributors? I don't have an opinion one
17 way or another other than to recognize that they're related.
18 As I said, two sides of the same coin.

19 MR. MAHADY: Okay.

20 BY MR. MAHADY:

21 **Q.** AmerisourceBergen, Cardinal Health and McKesson did not
22 write all of those prescriptions in 2009 in Cabell County,
23 correct?

24 **A.** Correct.

25 **Q.** Those prescriptions were written by the doctors in